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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,749

11/03/2003

Loren D. Mock

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07/14/2008

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EXAMINER

JOHNSON, BLAIR M

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

07/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,749

Applicant(s)

MOCK, LOREN D.

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-49 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 37-49 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Claim Rejections - 35 USC § 103

Claims 37-42, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leist et al '255 in view of Forsland 6,446,695.

Forsland discloses a multipaneled garage door which simulates double doors. While Leist et al does not simulate typical doors as presently disclosed, i.e. with diagonal portions, tongue and groove, etc., he is clearly concerned with decorative appearances. Consequently, it would have been obvious to modify Leist et al whereby he provides his door with the appearance of the Forsland doors.

Modifications of the appearances taught by Forsland would also have been obvious since such is the subject of design choice based purely on aesthetics. Also note the presence of grooves 47A (disclosed but not shown in the drawings of Forsland, see element 47) to distinguish one door from the other, which also may be applied to Leist et al for aesthetic reasons. Claim 45 further recites obvious aesthetic feature. Claim 46 attempts to further limit the simulated appearance by adding the limitation that are not more than two intersecting "portions". However, the term "portions" is extremely broad. It is not well defined where one "portion" begins and another "portion" ends. Consequently, the presence of grooves or raised portions along the edges does not obviate there being only two intersecting "portions".

Claim 37-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leist et al '255 in view of Jella '085.

Jella is applied to Leist et al as Forsland has been applied to Leist et al, above. Additionally, Jella teaches three panels and it would have been obvious to modify Leist

et al to have three panels so as to eliminate an additional seam between panels and to reduce costs.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jella '085 in view of Forsland '695.

Jella, in Fig. 1, shows a simulated double door showing symmetry on opposite sides of a central vertical line, which appears to be a groove. Forsland further discloses that a groove, 47 or 47A, is used in such a location to suggest the appearance of the double doors. In view of this teaching, it would have been obvious to modify Jella, if necessary, whereby his unnumbered line is actually a groove to further enforce the double door appearance.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Regarding the 132 declaration by Mr. Brenner, while it appears that the present door has seen an increase in sales relative to other products by the same company, such does not link the present invention directly to those increased sales. Increased manufacturing and availability of this product, among many factors, could account for this increase. The declarations by Mr. Nelson, Mr. Knoblich, Mr. Notto and Mr. Donahue have been considered. However, these testimonials merely suggest that the aesthetics are behind their popularity, when in fact other factors might contribute to their popularity.

Applicant has diligently pointed each limitation of the many claims and the shortcomings of the prior art as applied to these claims. The added limitation regarding the lack of overlay is intended to distinguish over the secondary references. However,

the secondary references are used to teach *appearance*, and not *structure*, as made clear. The Examiner maintains that the Leist reference teaches the embossed metal garage door which further has recesses therein to establish what can only be considered aesthetical accents to give the door the appearance of something other than a four panel door. Of course, providing a garage door that gives the appearance of double "carriage" doors has been around for years, as evidenced by the secondary references applied. It is a very small step to one of ordinary skill in the art to see the advantages of the carriage door appearance and apply it to Leist. The rejection is very simple and is based on these broad teachings.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blair M. Johnson/
Primary Examiner, Art Unit 3634

BMJ
7/10/08

Application Number**Application/Control No.**

10/699,749

**Applicant(s)/Patent under
Reexamination**

MOCK, LOREN D.

Examiner

Blair M. Johnson

Art Unit

3634